

DEPARTMENT OF STATE REVENUE

04960589.LOF

LETTER OF FINDINGS NUMBER: 96-0589 ST

Sales Tax

Calendar Years 1993, 1994, And 1995

NOTICE: Under IC 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Sales Tax - Rental Contract

Authority: 45 IAC 2.2-4-27, Information Bulletin #42

Taxpayer protests the assessment of sales tax on damage waivers in a rental contract.

STATEMENT OF FACT

The taxpayer qualifies as an S corporation. The taxpayer is a franchise renting and selling equipment and supplies in Greenwood, Indiana.

I. Sales Tax - Rental Contract

DISCUSSION

With regard to the rental, the taxpayer has an option in the contract where the taxpayer's customer can buy insurance in case there is any damage to the rented equipment. This is known as a damage waiver.

Information Bulletin #42 states:

"Sales tax must be charged where consideration is received from the exercise of an option contained in the rental or lease agreement, royalties paid, or agreed to be paid, either on a lump sum or other production basis, for use of tangible personal property; and any receipts held by the lessor which may at the time of their receipt or some future time be applied by the lessor as rentals."

As the consideration for the taxpayer's rented equipment also includes the consideration for any damage waiver exercised, the damage waiver is subject to sales tax.

FINDING

The taxpayer's protest is denied. The damage waivers are part of the rental agreement and are subject to sales tax.